



**MINUTES  
TOWN OF NAGS HEAD  
BOARD OF COMMISSIONERS  
REGULAR MEETING  
WEDNESDAY, JANUARY 2, 2019**

The Nags Head Board of Commissioners met in the Board Room of the Nags Head Municipal Complex located at 5401 S Croatan Highway in Nags Head, North Carolina on Wednesday, January 2, 2019 at 9:00 a.m.

Board members Present: Mayor Ben Cahoon; Mayor Pro Tem Susie Walters; Comr. Renée Cahoon; Comr. Webb Fuller; and Comr. Mike Siers

Board members Absent: None

Others present: Town Manager Cliff Ogburn; Attorney John Leidy; Andy Garman; Perry Hale; Shane Hite; Amy Miller; Brie Floyd; Roberta Thuman; Holly White; Ralph Barile; David Ryan; Kelly Wyatt; Diego Dayan; Alan Beatty; Bob Edwards; Chip Holcomb; Brian Rubino; Hal Goodman; Dan Bibey; and Town Clerk Carolyn Morris

**CALL TO ORDER/PLEDGE OF ALLEGIANCE**

Mayor Cahoon called the meeting to order at 9:00 a.m. A moment of silence was followed by the Pledge of Allegiance.

**ADOPTION OF AGENDA**

**MOTION:** Comr. Fuller made a motion to adopt the January 2<sup>nd</sup> agenda as presented. The motion was seconded by Mayor Pro Tem Walters which passed unanimously.

**RECOGNITION**

NEW EMPLOYEE - Public Works Director Ralph Barile introduced Water Service Technician Alan Beatty who was welcomed by the Board to Town employment.

TWENTY YEARS - Interim Fire Chief Shane Hite introduced Firefighter/EMT Diego Dayan who was recognized by the Board for 20 years of service.

RETIREMENT - Interim Fire Chief Shane Hite introduced Fire Captain George "Chip" Holcomb who was congratulated by the Board on his recent retirement.

**PUBLIC COMMENT**

No one present wished to speak during Public Comment.

**CONSENT AGENDA**

The Consent Agenda consisted of the following items:

- Consideration of Budget Adjustment #7 to FY 18/19 Budget
- Consideration of Tax Adjustment Report
- Approval of minutes
- Consideration of resolution to surplus Town equipment/vehicles

**MOTION:** Comr. Fuller made a motion to approve the Consent Agenda as presented. The motion was seconded by Comr. Siers which passed unanimously.

Budget Adjustment #7 to the FY 18/19 Budget, as approved, is attached to and made a part of these minutes as shown in Addendum "A".

The Tax Adjustment Report, as approved, is attached to and made a part of these minutes as shown in Addendum "B".

The resolution to surplus Town equipment, as adopted, read in part as follows:

"WHEREAS, the Board of Commissioners of the Town of Nags Head, North Carolina desires to declare surplus and dispose of certain Town owned property.

'NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Town of Nags Head that:

'The following described Town owned property is hereby declared to be surplus to the needs of the Town of Nags Head:

Asset Number	Description	Original Cost (\$)	Reason for Surplus	Disposal Method
Town Manager				
942	2005 Ford Explorer, VIN 1FMZU73W95UB53086	\$27,618	Vehicle has been replaced	Online auction
Administrative Services				
990	1989 Cummins Generator, SN D093580-DX02	Federal Government Surplus	Generator has been replaced	Online auction
Public Works - Sanitation				
988	2004 Heil Trailer, VIN 1H9ACGFA144270107	\$102,516	Trailer has been replaced	Online auction
3713	2005 Kubota, SN 33087	\$13,225	Equipment has been replaced	Online auction

Police					
957	2006 Ford Crown Vic, VIN 2FAFP71W46X148895	\$25,527	Vehicle has been replaced	Online auction	
967	2007 Dodge Charger, VIN 2B3KA43G67H804025	\$24,563	Vehicle has been replaced	Online auction	
968	2007 Dodge Charger, VIN 2B3KA43H87H843806	\$28,264	Vehicle has been replaced	Online auction	
Fire and Ocean Rescue					
4101	2009 Ford F-150, VIN 1FTPX14V69FA84129	\$31,480	Vehicle has been replaced	Online auction	
3751	2003 Odin Colt Skid Unit SN CLK-N-0329/03- 2701613	\$34,250 (Donated by NHVFD)	Skid unit has been replaced	Online auction	

'The Town Manager or his designee is hereby authorized to dispose of the listed items by any legal means allowable to include: Donation to a non-profit organization, Internet on-line offering, upset bid process, by destroying, etc."

## **PUBLIC HEARINGS**

Public Hearing to consider the adoption of resolutions authorizing the Town of Nags Head to enter into an Installment Purchase Contract, in an amount not to exceed \$800,000, to finance the cost of Doug Remaley Fire Station 16 HVAC renovations as well as the Stormwater Construction Projects

Attorney John Leidy introduced the Public Hearing to consider the adoption of resolutions authorizing the Town of Nags Head to enter into an Installment Purchase Contract, in an amount not to exceed \$800,000, to finance the cost of Doug Remaley Fire Station 16 HVAC renovations as well as the Stormwater Construction Projects. The time was 9:15 a.m.

Notice of the Public Hearing was published in the *Coastland Times* on Wednesday, December 19, 2018 and on Wednesday, December 26, 2018 as required by law.

Dep Town Manager Andy Garman summarized the agenda summary sheet which read in part as follows:

"The Public Hearing to consider public input on the financing of the Doug Remaley Fire Station 16 HVAC renovations and the FY 18/19 Stormwater Drainage Infrastructure Projects is a requirement of the Local Government Commission (LGC) for financing approval. You are being asked to approve these projects together as they will be submitted for LGC approval as one request.

'The FY 18/19 Stormwater Drainage Infrastructure Projects exceed the cost threshold for informal bidding; therefore, you are being asked to approve the Notice of Intent to Award the Bid and to authorize the Town Manager to enter into a construction contract, contingent upon LGC approval of financing. The HVAC renovations are within the informal bid threshold however the Town Manager is requesting that the Board review the bid and contract and authorize the Town Manager to enter into a contract with Piedmont Service Group for the HVAC renovations. The financing includes a 20% contingency for the FY 18/19 Stormwater Drainage Infrastructure Projects and a roughly \$3,000 contingency for the HVAC project.

'Request the following actions be taken:

1. Conduct the Public Hearing to consider adoption of financing resolutions.

*HVAC Project - Board consideration of bids received for HVAC renovations for Doug Remaley Fire Station 16*

2. Authorize Town Manager to enter into construction contract for the HVAC renovations with Piedmont Service Group contingent upon approval of financing

*Stormwater Projects - Board consideration of bids received for FY 18/19 Stormwater Drainage Infrastructure Projects*

3. Authorize Town Manager to issue Notice of Intent to Award the Bid to Hatchell Concrete, Inc.
4. Authorize Town Manager to enter into construction contract with Hatchell Concrete, Inc. contingent upon approval of financing

*Financing of Projects*

5. Adoption of resolution authorizing application to Local Government Commission (LGC) for HVAC renovations and the FY 18/19 Stormwater Drainage Infrastructure Projects
6. Adoption of resolution authorizing the Town to enter into financing contract with BB&T for HVAC renovations and the FY 18/19 Stormwater Drainage Infrastructure Projects
7. Approval of associated Budget Amendment

‘For additional details, attached please find project memos for each project.’

Finance Officer Amy Miller summarized her recommendations for the HVAC and the Stormwater Project 2018/2019 financing – her memo read in part as follows:

‘Admin Services has obtained financing quotes from the following financial institutions:

	Interest Rate	Fees
BB&T	3.11%	\$5,900
Southern	Unable to bid	
FNB	Unable to bid	
PNC	Unable to bid	
SunTrust	Unable to bid	

‘Staff has included the proposal sent out as well as the BB&T proposal. Staff is recommending accepting the proposal received from BB&T. The interest rate at 3.11% is less than the comparable 5-year rate at 3.224% awarded to SunTrust for the fiscal year 2018/2019 vehicle and equipment financing. Fees associated with legal review expenses, underwriting, and securing a first lien security interest including preparation of the deed of trust and all documentation for the Town are required as part of the financing.’

Dep Town Manager Andy Garman summarized the actions requested of the Board:

- Consideration of bids received for Stormwater Drainage Projects and HVAC renovations
- Adoption of resolution authorizing application to Local Government Commission (LGC)
- Adoption of resolution authorizing the Town to enter into financing contract
- Approval of associated Budget Amendment
- Authorization to enter into construction contract for the HVAC renovations
- Authorization to enter into construction contract for the Stormwater construction projects

Dep Town Manager Andy Garman summarized staff’s memo re: the HVAC renovations which read in part as follows:

"Requests to bid on the renovations to the Doug Remaley Fire Station 16 HVAC system were forwarded to the following companies:

'Norris Mechanical  
R. A. Hoy  
Delta T Heating and Air  
Air Handlers  
Outer Banks Heating & Air  
Piedmont Service Group  
Comfort Systems of Virginia

'Valid bids were received from Piedmont Service Group and Comfort Systems of Virginia. After review, staff recommends Piedmont Service Group be awarded the contract in the amount of \$82,704."

Comr. Siers questioned the period of time listed for the actual HVAC installation. Mr. Garman explained that staff wanted to make sure adequate time was provided for inclement weather or any other issues that may cause delays.

**MOTION:** Comr. Renée Cahoon made a motion to approve the contract with Piedmont Service Group for the Doug Remaley Fire Station 16 HVAC renovations in an amount not to exceed \$82,704. The motion was seconded by Mayor Pro Tem Walters which passed unanimously.

Town Engineer David Ryan summarized his memo re: Stormwater Projects which read in part as follows:

"Part 1

On November 30, 2018, The Town of Nags Head solicited formal bids for the construction of (3) separate drainage infrastructure improvement projects encompassing the following work- (1) Culvert Replacement upstream of Red Drum ocean outfall, (2) Groundwater lowering pump system and force main on West Bridge Lane and (3) Infiltration Trenches on South Virginia Dare Trail between East Mall Drive and East Epstein Street. The bids were structured with a base bid amount and (4) alternate bid amounts. Bids were received on Dec. 20, 2018 with (4) competitive bids being received from the following contractors: RPC Contracting Inc., (\$918,210 total bid amount), Hatchell Concrete, Inc. (\$514,800 total bid amount), Envirotech Unlimited Construction Services (\$879,402 total bid amount) and Barnhill Contracting Company (\$624,486 total bid amount). Based upon an evaluation performed by WithersRavenel, the Town's engineering consultant, for review of bid conformance to project specifications and bid pricing analysis, it has been determined that Hatchell Concrete, Inc. is the lowest responsive, responsible bid for the base bid and (4) alternates in the amount of \$514,800.

'Board Action #1- Consideration of Notice of Intent to Award to Hatchell Concrete Inc. (HCI) for the FY 18-19 Drainage Infrastructure Improvement Projects #1-#3 for the submitted bid total of \$514,800 (base bid +alternate bid amounts 1,2,3,4.1,4.2).

'Part 2

With the approval of Part 1, and for Board consideration, is a copy of the draft construction contract encompassing the total bid award amount of \$514,800. The request is to conditionally authorize the Town Manager to proceed with execution of the construction contract for the scope of work for the three individual drainage areas. Please note that the conditional approval requires the Local Government Council (LGC) to approve the financing request prior to the Town Manager's execution.

'Board Action #2- Consideration of conditional authorization for the Town Manager to execute the construction contract with Hatchell Concrete Inc. (HCI) for the total construction bid award amount of

\$514,800, (base bid + alternate bid amounts 1,2,3,4.1,4.2), contingent upon Local Government Council (LGC) financing approval.”

Mayor Cahoon questioned the lowest responsible bid which was considerably lower than the other bids and lower than the budgeted amount; Mr. Ryan explained that consultant Withers Ravenel reviewed the bids as did staff and that Hatchell Concrete confirmed that their proposed costs were accurate.

**MOTION:** Comr. Fuller made a motion to issue the Notice of Intent to Award the bid to Hatchell Concrete contingent upon Local Government Commission approval. The motion was seconded by Mayor Pro Tem Walters which passed unanimously.

**MOTION:** Mayor Pro Tem Walters made a motion to authorize the Town Manager to proceed with execution of the construction contract with Hatchell Concrete contingent on Local Government Commission approval and Town Attorney approval at a cost of \$514,800 plus a 20% maximum contingency allowance. The motion was seconded by Comr. Siers which passed unanimously.

There being no one present who wished to speak, Attorney Leidy concluded the Public Hearing at 9:26 a.m.

**MOTION:** Comr. Renée Cahoon made a motion to adopt the resolution approving application to the Local Government Commission for the financing of the HVAC renovations and Stormwater Projects as presented. The motion was seconded by Mayor Pro Tem Walters which passed unanimously.

The resolution approving application to the Local Government Commission, as adopted, read in part as follows:

“WHEREAS, the Town of Nags Head, North Carolina desires to finance the construction of Stormwater projects and HVAC renovations in the Doug Remaley Fire Station 16 as identified in the fiscal year 2018-2019 budget and Reimbursement Resolution Numbers 18-07-016 and 18-12-030 (the “Project”) to better serve the citizens of Nags Head; and

‘WHEREAS, The Town of Nags Head desires to finance the Project by the use of an installment contract authorized under North Carolina General Statute 160A, Article 3, Section 20; and

‘WHEREAS, findings of fact by this governing body must be presented to enable the North Carolina Local Government Commission to make its findings of fact set forth in North Carolina General Statute 159, Article 8, Section 151 prior to approval of the proposed contract.

‘NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of Nags Head, North Carolina, meeting in regular session on the 2<sup>nd</sup> day of January, 2019, make the following findings of fact:

‘1. The proposed contract is necessary because the current Fire Station 16 HVAC is malfunctioning and needs replaced. Additionally, the Town is in the design phase of and wishes to implement the third and fourth phases of the stormwater master plan in order to improve the Town’s drainage infrastructure. All applicable permits and easements will be obtained prior to LGC approval as construction is necessary to begin in February 2019 in order for Final Completion by July 16, 2019.

‘2. The sums to fall due under the contract are adequate and not excessive for the proposed purpose as in accordance with the amended budget for FY 2018-2019 and Reimbursement Resolution Numbers 18-07-016 and 18-12-030.

‘3. The Town of Nags Head’s debt management procedures and policies have been carried out in strict compliance with the law, and assurance is provided that debt management will hence forth be so

carried out.

'4. There was a one cent tax increase restricted by the Board necessary for stormwater management to meet the sums to fall due under the proposed contract for the stormwater improvements.

'5. The Town of Nags Head is not in default in any of its debt service obligations.

'6. The attorney for the Town of Nags Head has rendered an opinion that the proposed Project is authorized by law and is a purpose for which public funds may be expended pursuant to the Constitution and laws of North Carolina.

'NOW, THEREFORE, BE IT FURTHER RESOLVED that the Manager is hereby authorized to act on behalf of the Town of Nags Head in filing an application with the North Carolina Local Government Commission for approval of the Project and the proposed financing contract and other actions not inconsistent with this resolution."

**MOTION:** Mayor Pro Tem Walters made a motion to adopt the resolution to approve entering into a financing contract with BB&T with the financing terms as presented for the HVAC renovations and Stormwater Projects in an amount not to exceed \$705,000. The motion was seconded by Comr. Renée Cahoon which passed unanimously.

The resolution to approve entering into a financing contract with BB&T, as adopted, read in part as follows:

"WHEREAS: The Town of Nags Head (the "Town") has previously determined to undertake a project for financing of the Fire Station 16 HVAC renovations as well as construction implementation of the stormwater master plan, (the "Project"), and the Finance Director has now presented a proposal for the financing of such Project.

'BE IT THEREFORE RESOLVED, as follows:

1. The Town hereby determines to finance the Project through Branch Banking and Trust Company (BB&T), in accordance with the proposal dated December 21, 2018. The total amount financed shall be \$705,000.00 and the term shall not exceed five (5) years from closing and the annual interest rate shall not exceed 3.11%.

2. All financing contracts and all related documents for the closing of the financing (the "Financing Documents") shall be consistent with the foregoing terms. All officers and employees of the Town are hereby authorized and directed to execute and deliver any Financing Documents, and to take all such further action as they may consider necessary or desirable, to carry out the financing of the Project as contemplated by the proposal and this resolution. The Financing Documents shall include a Financing Agreement and Deed of Trust and a Project Fund Agreement as BB&T may request.

3. The Finance Director is hereby authorized and directed to hold executed copies of the Financing Documents until the conditions for the delivery of the Financing Documents have been completed to such officer's satisfaction. The Finance Director is authorized to approve changes to any Financing Documents previously signed by Town officers or employees, provided that such changes shall not substantially alter the intent of such documents or certificates from the intent expressed in the forms executed by such officers. The Financing Documents shall be in such final forms as the Finance Director shall approve, with the Finance Director's release of any Financing Document for delivery constituting conclusive evidence of such director's final approval of the Document's final form.

4. The Town shall not take or omit to take any action the taking or omission of which shall cause its interest payments on this financing to be includable in the gross income for federal income tax purposes of

the registered owners of the interest payment obligations. The Town hereby designates its obligations to make principal and interest payments under the Financing Documents as "non-bank qualified, tax-exempt obligations" for the purpose of Internal Revenue Code Section 265(b)(3).

5. The Town intends that the adoption of this resolution will be a declaration of the Town's official intent to reimburse expenditures for the project that is to be financed from the proceeds of the BB&T financing described above. The Town intends that funds that have been advanced, or that may be advanced, from the Town's general fund, or any other Town fund related to the project, for project costs may be reimbursed from the financing proceeds.

6. All prior actions of Town officers in furtherance of the purposes of this resolution are hereby ratified, approved and confirmed. All other resolutions (or parts thereof) in conflict with this resolution are hereby repealed, to the extent of the conflict. This resolution shall take effect immediately."

**MOTION:** Mayor Pro Tem Walters made a motion to approve Budget Amendment #7 (7.6) as presented. The motion was seconded by Comr. Siers which passed unanimously.

Budget Amendment #7 (7.6) for the Stormwater Projects/Doug Remaley Fire Station #16 HVAC Renovations, as approved, is attached to and made a part of these minutes as shown in Addendum "C".

Public Hearing to consider a zoning ordinance text amendment submitted by Brian Rubino of Quible and Associates, P.C. on behalf of Miller's Waterfront Restaurant and Tale of the Whale Restaurant to allow a new use, docking facilities with transient boat slips, in the C-2, General Commercial Zoning District and in the Commercial-Outdoor Recreational Uses Overlay Zoning District

Attorney John Leidy introduced the Public Hearing to consider a zoning ordinance text amendment submitted by Brian Rubino of Quible and Associates on behalf of Miller's Waterfront Restaurant and Tale of the Whale Restaurant to allow a new use – docking facilities with transient boat slips – in the C-2 General Commercial Zoning District and in the Commercial Outdoor Recreational Uses Overlay zoning district. The time was 9:30 a.m.

Notice of the Public Hearing was published in the *Coastland Times* on Wednesday, December 19, 2018 and on Wednesday, December 26, 2018 as required by law.

Dep Planning Director Kelly Wyatt summarized her staff report which read in part as follows:

"Brian Rubino of Quible and Associates, P.C. has submitted the attached zoning ordinance text amendment on behalf of Miller's Waterfront Restaurant and Tale of the Whale Restaurant. If adopted the requested amendment would permit a new use, "Docking Facility", as a permitted use within the C-2, General Commercial Zoning District and the Commercial Outdoor Recreation Overlay District. Currently, any docking facility that is intended to be used by the general public or someone other than the landowner is considered a commercial marina according to the town code. The town does not allow commercial marinas anywhere in the town. The proposed ordinance would define a pier with up to eight slips as a docking facility rather than a commercial marina and would allow the use under certain conditions within the aforementioned zoning districts. As part of the request, the applicant has proposed to clarify the difference between a docking facility and a commercial marina. The proposed text amendment would amend the definition of "Commercial Marina" to constitute a facility where more than eight (8) boats can be accommodated and further, to eliminate the requirement that the boats being moored are not for the exclusive use of the landowner. The town would continue to prohibit commercial marinas under this proposal and only allow docking facilities as an accessory use to a principal commercial use.



'The applicants are seeking this amendment to the Town Code in order to allow the accessory use of transient boat slips at their respected locations. It is intended that these slips would be utilized by restaurant patrons who own boats and wish to temporarily moor at safe, navigable, established slips while they enjoy dining at the restaurant.

'The Planning Board and Board of Commissioners discussed the use of transient boat slips just over a year ago; the necessary background information is included below.

'In March 2017 Planning Staff discussed with the Planning Board several items related to the Commercial Outdoor Recreation Overlay District, including the development of commercial marinas and docking facilities. Staff noted that the Town had received requests for piers and docking facilities from non-recreation businesses, including Millers Waterfront Restaurant. The Town Code provides that unless approved as part of an outdoor recreation site, commercial marina facilities are not allowed. At that time the zoning definition for "commercial marina" was as listed below:

*'Commercial marina means any publicly or privately owned dock, basin or wet storage facility constructed to accommodate mooring for boats which are not for the exclusive use of the landowner and providing, but not limited to, any of the following services: Permanent or temporary transient docking spaces, dry storage, fueling facilities, haulout facilities and repair service. Site plans which have been approved by the board of commissioners for outdoor recreational uses are not considered a commercial marina.*

'Additionally, the town's land use plan also contains a policy opposing the following activities:

*'The Town considers the following types of development as not desirable in Nags Head and they will not be permitted:*

*'Dry-stack boat storage, floating homes, large (more than ten boats) commercial boat marinas, finger canals, upland excavation for boat marinas, forestry practices in Nags Head Woods (SED-80), mooring buoys to accommodate transient visitors.*

'The Coastal Area Management Act (CAMA) defines a Marina as any publicly or privately owned dock, basin or wet boat storage facility constructed to accommodate more than 10 boats and providing any of the following services: permanent or transient docking spaces, dry storage, fueling facilities, haul-out facilities and repair service.

'Planning Staff noted that the Town has historically taken a careful approach to controlling commercial activities along the Town's shoreline and had recently rejected uses such as horseback tours and jet pack use due to their impact to the sound bottom and/or the noise related impacts associated with the use. Staff noted that if existing non-recreation businesses were granted the ability to add piers or docking facilities that provide commercial or non-commercial services, it would be necessary for the Planning Board to consider how might this change the character of the Commercial Outdoor Recreation Overlay District, and how these facilities will impact other uses including passive and non-motorized recreation uses.

'Planning Staff informed the Planning Board at this meeting that Miller's Waterfront Restaurant, having already been issued a CAMA Major Permit for nine boat slips, was inquiring about and eager to obtain a building permit to construct a pier to allow their customers to dock and eat at the restaurant but not offering the types of services a commercial marina would offer.

'Following the March 2017 Planning Board meeting, Deputy Town Manager Andy Garman updated the Board of Commissioners on the discussion surrounding the Commercial Outdoor Recreation Overlay District at their April 5, 2017 meeting. The Board of Commissioners expressed concern about safety and congestion when

mixing jet skis/active recreation and kayaks/passive recreation. The Board of Commissioners requested these comments be provided to the Planning Board for their review and discussion.

'At the Planning Board's April 13, 2017 meeting, Planning Staff provided an update to the previous discussion. Staff compiled minutes from meetings held by the BOC during the 1990's when the ordinances concerning marinas were adopted and/or modified. Based on staff's review of the minutes and comments provided by the Board of Commissioners, it appears that the current regulations were deliberately created to limit the overall number of sites that can operate motorized watersports businesses to enhance safety and control the overall intensity of water-based recreational uses. Major concerns expressed at this time relate to: 1) limiting recreational and/or commercial boating in shallow nearshore areas of the sound where boat traffic using traditional propellers may cause damage to the sound bottom, 2) reducing conflicts between motorized and non-motorized water users which creates inherent safety hazards, and 3) minimizing or controlling marinas that serve boat traffic in shallow areas of the sound which present inherent complications in siting these facilities.

'At the Planning Board's May 11, 2017 meeting, planning staff presented several proposed definitional changes to help clarify and provide clear distinctions between different types of water dependent facilities. The proposed definitions are listed below:

*'Pier means a structure, typically consisting of a platform supported on pillars or girders, leading out from the shore extending into the water.*

*'Dock means a space in the water adjacent to a pier, for mooring of watercraft, open on three sides and parallel to the main pier structure.*

*'Slip means a space in the water adjacent to a pier, oriented perpendicular to the main pier structure, typically surrounded on three sides by a combination of the main pier structure, finger piers, and/or pilings that can be used to securely moor watercraft.*

*'Commercial pier means a singular pier structure, either publicly or privately owned, extending perpendicular from the shoreline for the purpose of accommodating foot traffic and/or adjacent docking space which is not for the exclusive use of the landowner. Commercial piers may contain up to four dock spaces (not slips). Commercial piers shall not be used for overnight mooring for anyone other than the landowner and shall not contain any of the services of a commercial marina.*

*'Commercial marina means any publicly or privately owned dock pier arranged or configured to include slips, a basin or wet storage facility constructed to accommodate mooring for boats which are not for the exclusive use of the landowner and providing, but not limited to, any of the following services: Permanent or temporary transient docking spaces, dry storage, fueling facilities, haulout facilities and repair service. Site plans which have been approved by the board of commissioners for outdoor recreational uses are not considered a commercial marina.*

'Under this proposed scheme, commercial piers would be allowed as accessory uses to principal commercial uses in the CORD and commercial marinas would continue to be prohibited.

'Mr. Rubino of Quible and Associates, P.C. was present at this meeting to speak on behalf of Millers Waterfront Restaurant and to provide general information on the CAMA permitting process. Mr. Rubino informed the Planning Board that a CAMA Major Permit is reviewed by fifteen state and federal agencies so there is a very intense environmental review. When more than two slips are proposed a water depth survey, SAV (submerged aquatic vegetation) survey will be required and the applicant will meet with Marine Fisheries representative's onsite to verify findings. Mr. Rubino noted that Miller's Waterfront Restaurant received a CAMA Major permit for nine slips on a dock and platform and that the approved configuration was the most

environmentally preferred. Minutes from this Planning Board meeting are provided for your review. While planning staff had made a recommendation at this time to allow for four (4) boat slips as part of a commercial pier, the Planning Board felt that the zoning regulations should be more consistent with the CAMA regulations, allowing up to ten (10) slips and requested staff make the necessary revisions and bring back a draft ordinance for their review at their June 2017 meeting.

'As directed, planning staff brought a draft zoning ordinance back to the Planning Board at their June 2017 meeting which would amend the definition of "Commercial Marina" to be consistent with the CAMA definition by specifying that a commercial marina is a facility that provides mooring for more than ten (10) boats. Additionally, a definition for "Commercial boat pier" was created. These proposed definitions are listed below:

*'Commercial marina means any publicly or privately owned dock, basin or wet storage facility constructed to accommodate mooring for **more than ten** boats which are not for the exclusive use of the landowner and or providing, but not limited to, any of the following services: Permanent or temporary transient docking spaces, dry storage, fueling facilities, haulout facilities and repair service. Site plans which have been approved by the board of commissioners for outdoor recreational uses are not considered a commercial marina.*

*Commercial boat pier means any publicly or privately owned dock, basin or wet storage facility constructed to accommodate transient, day-use only mooring for ten or less boats which are not for the exclusive use of the landowner. Commercial boat piers may not provide any of the following services: Permanent docking spaces, overnight mooring, dry storage, fueling facilities, haulout facilities, repair service, or any other water dependent commercial-outdoor recreational use.*

'Note that the previously proposed definitions for "pier", "dock", "commercial pier" and "slip" were removed from consideration.

'At its August 2, 2017 meeting, the Board of Commissioners discussed this proposed amendment during Public Hearing, and desiring additional information, made a motion to delay consideration until staff had an opportunity to provide responses to the questions raised concerning the potential number of properties that could take advantage of this ordinance if adopted. Staff was also asked to provide any pertinent information from a previous Carrying Capacity Study conducted in the 1990's related to the recreational use of the waters in the Commercial Outdoor Recreation Overlay District.

'Planning staff presented the requested information to the Board of Commissioners at their September 6, 2017 meeting. After conducting an analysis it appeared that fourteen (14) sites would be able to construct and/or extend a pier in order to accommodate boat slips. This number was based on the sites that currently do not operate as a watersports business; or that operate as a watersports business but do not currently have a pier facility. At their August meeting the Board also inquired the Carrying Capacity Study that was completed in the late 1990's regarding water-based recreation in the Commercial Outdoor Recreation Overlay District. This study analyzed the capacity of this area to support both motorized and non-motorized recreation to preserve user enjoyment and to maintain safety between user groups. This was provided as an attachment for the Boards consideration at the time.

'Brian Wilson of Miller's Restaurant and Brian Rubino of Quible & Associates, P.C. both spoke in support of allowing up to ten (10) transient boat slips for commercial businesses within the Commercial Outdoor Recreation Overlay District.

'The Board of Commissioners expressed concern about the number of activities concentrated in one area and the potential to create user conflict. The Board of Commissioners voted 3-1 to deny the requested zoning ordinance text amendment as presented with Comr. Ratzenberger casting the NO vote and Comr. Demers was not present.

'This is a summary of the timeline, discussions, iterations of the ordinance language and the final determination with regard to commercial marinas and transient boat slips. Attached are minutes from these discussions as well as minutes from earlier discussions in the 1990's and the referenced Carrying Capacity Study.

'STAFF RECOMMENDATION:

During previous discussions of this ordinance staff recommended a total of four boat slips to be allowed. The intent of this recommendation was to provide a measured approach which would allow this activity with some built-in limitations to control the overall amount of boat traffic, provided that there were initial concerns regarding safety and use compatibility. If this ordinance proceeds as drafted, staff recommends denial of the text amendment. If the Board of Commissioners are inclined to recommend adoption of the proposed ordinance as drafted, staff suggests consideration of this as a conditional use and limiting the area in which it would apply to strictly the Commercial Outdoor Recreation Overlay District and not the C-2, General Commercial District.

'PLANNING BOARD RECOMMENDATION:

At its November 20, 2018 meeting the Planning Board voted 5-2 to recommend adoption of the proposed zoning ordinance text amendment with the allowance of eight (8) boat slips for properties within the Commercial-Outdoor Recreation Overlay District only and processing the request via the Conditional Use process."

Bob Edwards, former Mayor of Nags Head, Sugar Creek Condominium resident presented his comments which he provided to the Town Clerk and which read in part as follows:

"Comments in reference to ordinance to allow boat marinas in the C-2 and C-2 recreation overlay district

'Good morning Mayor Cahoon and commissioners. It's good to be back with you this morning. I truly appreciate the work you do for our Town but feel I must make my reservations known before the ordinance change now being requested is voted on.

'Approving the Ordinance request to allow "Docking Facilities" as a permitted use in the C2 General Commercial District and the Commercial-Outdoor Recreational Uses Overlay Zoning Districts would be a serious error for our Town. When our citizens met to discuss sea level rise and Focus Nags Head one of the over riding thoughts was to preserve our marsh lands as a natural asset and as a barrier against erosion of our sound shoreline. I must remind you, as always, approving this ordinance is not for the two requests you have in front of you now but for a possible 14 or more marinas. I oppose approval of this ordinance change for the following specific reasons.

'Number 1 – It violates our revised Land Use Plan

As stated on page 3-16 of the Focus Nags Head plan LU-8 reads in part "Ensure proposals for future commercial uses in the sound are not detrimental to the marsh, sound bottom and submerged aquatic vegetation. Compatible sound uses will not increase turbidity in the water and will maintain overall water quality.

'LU-7 on the same page states "Review regulations in the Ocean and Sound Waters Overlay District to ensure proper use of the ocean and sound waters, including islands that adjoin the town to ensure the continued scenic, conservation and recreational value that these waters provide to the town, Its residents, and visitors and the surrounding area." In addition LU-7a states "Review regulations for commercial boating and personal watercraft to maintain compatibility with adjacent uses and the estuarine environments."

'On page 3-47 in summary the plan states "The goal of the Town is to maintain and improve estuarine water quality and natural functions while providing water based recreation opportunities that do not compromise water quality goals."

'Again on page 3-48 NR-1, NR-2, and NR-4 all address protecting the natural estuarine shorelines As you can see, the proposed ordinance change flies in the face of these sections of the Focus Nags Head plan. Docks and marinas that are 500 to 600 feet long to get to the water depths needed for boat traffic is certainly not what the plan talks about. I have witnessed that boat traffic in these areas of the sound stir up mud from the bottom and leave a plume of muddy water in the pathway the boat has taken. In addition destroying marsh land to build docks and walkways will destroy much of the existing marsh vegetation. This brings me to number 2.

#### 'Number 2 - Flood water retardation

It is estimated that marsh vegetation can dissipate as much as 90% of wave action energy. This is very easy to see if you consider the effects of the recent Hurricane Michael which with no marsh barrier for Bay Drive in Kill Devil Hills the neighborhood was decimated with flood waters and debris coming ashore and flooding the entire area. With the marshes in Nags Head as a barrier the flooding was much less and came ashore more slowly and with much less damage. I personally witnessed the flooding activity during Michael where the majority of the flooding at the Sugar Creek Condos came through the pathway created by the walkway to the dock. In looking at the marsh after the flooding it could be seen that the dense marsh grasses had actually matted and formed a dyke to hold the flood waters back. Based on these actual observations more boat docks and destruction of marsh areas will only increase the chance of flooding along the sound front properties. In the future, do we want to look like Bay Drive in Kill Devil Hills after a flooding event?

#### 'Number 3 - Estuarine nurseries

The sound front and marshes serve as a nursery for fish and shell fish. You can see this happening with the large schools of minnows that swim in and out of the marsh grasses using them for protection. In page 3-45 of our land use plan we state "Fisheries are one of the most significant estuarine resource that benefits the regional and state economy. According to the 2016 study entitled the Economic Valuation of the Albemarle-Pamlico Watershed's Natural Resources; these fisheries have an annual economic value of \$1 billion dollars statewide. The commercial fishing industry provides income for residents and stocks many markets and restaurants in the region. While not a major contributor to Nags Head commercial fishing has historically been a mainstay of the culture here. The Town should support and ensure future opportunities to engage in commercial fishing by understanding the town's roll in water quality and protection of natural shoreline." The Town's roll is to maintain our marsh lands and sound side water quality to maintain the nurseries for the fishing industry.

#### 'Number 4 - Maintain Viewsheds

When we had public input about the development of the Sound Side Event Site the major issue for our local residents was that the site be developed to maintain the viewshed of the sound and marsh fronts. On page 3-46 of our land use plan we state "Future development should be designed in a way to maintain and preserve these open, water front viewshed." Building long docks and marinas out into the sound certainly does not preserve the open water front viewsheds and this is the type of development we must avoid.

#### 'Number 5 - Maintain a business friendly environment.

While trying to be friendly to business requests for additional facilities we must also consider the existing businesses. In the recreation overlay district we allow water based recreation businesses but only with very specific limitations. Building long docks and marinas out into the sound will severely impact these businesses and create safety issues when boats interact with jet skis, kayaks, wind surfers and other activities that already exist in this area.

'Summary

Before considering the approval of this request I feel it would be beneficial for all to reread all of section 3 of our current land use plan. This request certainly does not fit with who we say we want to be and may have a long term harmful effect on why our visitors want to come to Nags Head to enjoy our outstanding natural environment. CAMA has made an error in approving permits for the two sites now involved in that they clearly violate our land use plan and existing ordinances. I respectfully request that you deny this requested ordinance change. I would be glad to answer any questions you might have."

Brian Rubino from Quible and Associates responded to Mr. Edwards' comments from an environmental and safety perspective; a restaurant patron would bring their boat in and safely tie it up to a boat slip while they eat and then get back on their way; Mr. Rubino explained that the request has nothing to do with traditional marina services – no rentals, fueling, etc. He stated that very few areas would fit in this situation; the business has to go through the major permit process with the State also and must show that marsh and habitat are not adversely affected; he is asking on behalf of the applicant for transient boat slips and it would not be a marina in the eyes of the State and Federal Government.

Comr. Siers asked about the requirement for the CAMA major permit and questioned how many of the possible 14 businesses could realistically build a docking facility. Mr. Rubino responded that he feels maybe three or four could realistically build a docking facility and that the likelihood is very low even if they were able to be permitted.

Comr. Siers asked about the effects on water quality – Mr. Rubino said that he feels it would be very comparable to a boardwalk and may even have less environmental impacts than a boardwalk.

Comr. Fuller asked if under the current regulations if a transient boat could tie up at a boat dock, get out, and eat at a restaurant right now – he questioned what would prohibit the applicant from putting in a dock under the current regulations – he questioned why this item was even brought forward.

Mayor Pro Tem Walters asked Mr. Rubino why he felt only three or four properties could take this action; Mr. Rubino said that he is basing it on a combination of things such as less water depth in some areas.

Hal Goodman, Construction Engineering Services; he filed the application for Tale of the Whale; he responded to Comr. Fuller's comments and stated that all approvals were received from CAMA but CAMA told them they had to be approved by the Town also which is why they are here. Mr. Goodman said that it would be dangerous to take this action without adding 72 linear feet of pier to allow him to get over four feet of water to allow boats to safely tie up.

In response to Comr. Fuller, Ms. Wyatt stated that parking at a neighbor's pier/dock would be a residential use and would not trigger staff to look into it.

Comr. Siers said that the Nags Head definition of marina does not parallel CAMA's definition – if not for that the Board would not be having the discussion today.

Comr. Fuller feels the request is too individualistic to accommodate something that they can already do – The Carrying Capacity Study was done years ago and was geared toward personal watercraft and windsurfers – not restaurants.

Comr. Fuller questioned if the Board can vote on an ordinance which, as noted by staff, violates both the 2010 and the 2017 LUP. Attorney Leidy said that the Board must make a statement that it is consistent with the LUP. Mayor Cahoon confirmed with staff that the Planning Board did not make that finding in their deliberations.

Mr. Rubino stated that there are no conflicts environmentally, approval was received from CAMA and all adjacent property owners received letters and no objections were made.

Ms. Wyatt clarified that the inconsistency is with the ordinance definition and not the LUP.

There being no one else present who wished to speak, Attorney Leidy closed the Public Hearing at 10:10 a.m.

**MOTION:** Comr. Fuller made a motion that the Town take no action on the ordinance re: transient boat slips as presented within the next 90 days. The motion failed for lack of a second.

In response to Comr. Siers, Comr. Fuller stated that he feels more discussion between staff and the applicant is needed in order to address the issue more comprehensively and to address all unanswered questions.

**MOTION:** Comr. Siers made a motion to adopt the ordinance re: transient boat slips as presented. The motion failed for lack of a second.

Comr. Renée Cahoon questioned if the Town has done anything to see, if adopted as presented, what impact the number of slips would have on the carrying capacity of the estuarine shoreline.

Mayor Pro Tem Walters confirmed that an updated study would include interaction with all watersports such as windsurfing, personal watercraft, etc. in the Recreational Overlay District. Mr. Garman pointed out that the Carrying Capacity Study has not been updated.

Mayor Cahoon pointed out that some of the potential conflicts can occur today without anything additional being built – the area in question is about the same size as the Shallow Bag Bay area which is without apparent conflict; with a CAMA Major permit the vegetation concerns have been addressed adequately; this is a conditional use so each request would have to be reviewed beforehand by the Board. He spoke favorably about getting away from vehicles in order to get to/from existing facilities.

Attorney Leidy said it was unclear to him as he had not studied it whether the proposal was consistent or not with the Land Use Plan.

**MOTION:** Mayor Pro Tem Walters made a motion to table the Request for docking facilities with transient boat slips to the February 6<sup>th</sup> Board of Commissioners meeting and that staff and the Town Attorney render a definitive opinion at that time as to whether or not the proposal is consistent with the Town's Land Use Plan; also Staff is to address questions brought forward by the Board. The motion was seconded by Comr. Renée Cahoon which passed unanimously.

### Presentation of Annual Audit Report

The agenda summary sheet for the Annual Audit Report presentation read in part as follows:

"At the January 2<sup>nd</sup> Board of Commissioners meeting, Teresa Osborne of Dowdy & Osborne, LLP will present the Town's annual audit at Time Specific 10:00 a.m.

'Her report will be followed with a presentation by Finance Officer Amy Miller of the Popular Annual Financial Report (PAFR). Ms. Miller has also provided the attached Comprehensive Annual Financial Report for Fiscal Year Ended June 20, 2018."

Auditor Teresa Osborne - Dowdy & Osborne, LLP presented the Town's annual audit – she stated that the report received an Unmodified Opinion which is the best that can be received. She indicated that the

Comprehensive Annual Financial Report (CAFR) has been approved by the Local Government Commission and presented to the Government Finance Officers Association (GFOA).

Ms. Osborne reported that the Town is in strong financial position and she appreciated the high caliber work done by the Town's Financial Dept.

Comr. Renée Cahoon thanked Ms. Osborne for keeping the Town on track re: employee retirement funding. Ms. Osborne said that very few local governments are funding this benefit but that the Local Government Commission (LGC) is starting to ask the question of municipalities concerning their plans. She spoke positively about the Town being proactive.

#### Presentation of Popular Annual Financial Report (PAFR)

Finance Officer Amy Miller presented the Popular Annual Financial Report (PAFR), a collaborative submission by all departments, via a powerpoint presentation. She reported that last year the Town received both CAFR and PAFR awards and she hopes the same for this year. Both reports were due to the GFAO by December 31<sup>st</sup>.

The financial reports were received very favorably by the Board. Mayor Pro Tem Walters praised Finance Officer Miller and her staff for the work done.

The financial reports – the Comprehensive Annual Financial Report (CAFR) and the Popular Annual Financial Report (PAFR) are on file in the Town Library.

### **REPORTS AND RECOMMENDATIONS FROM THE PLANNING BOARD AND THE PLANNING AND DEVELOPMENT DIRECTOR**

#### Project Updates

- FOCUS Technical Committee – Unified Development Ordinance (UDO)

Planner Holly White presented the agenda summary sheet which read in part as follows:

"Staff has completed consolidation of all suggested changes into the final Draft document which was provided to Board members on Tuesday, December 18, 2018. Additional review and discussion of the Draft document will take place at the January 24-25, 2019 Board Retreat."

Mayor Cahoon asked Board members to direct comments/suggestions when reviewing the document to Ms. White.

Consideration of a Site Plan Amendment submitted by LKC Engineering, PLLC on behalf of Carolina Water Service Inc. of NC for numerous site improvements, including a 72' x 32' structure to house treatment equipment and associated electrical components - at the existing Village at Nags Head Waste Water Treatment Plant (WWTP). The property is zoned SPD-C, Village Institutional and is located at 205 Seachase Drive, Nags Head.

Dep Planning Director Kelly Wyatt summarized the staff report concerning the site plan amendment for improvements to the Village at Nags Head Waste Water Treatment Plant which read in part as follows:

"Applicant: LKC Engineering, PLLC on behalf of Carolina Water Service Inc. of NC, Village at Nags Head WWTP.



Application Request: Site Plan Review.

Purpose: Construction of a one-story 2,300 square foot accessory structure to house treatment equipment and associated electrical components and the relocation of a gravel driveway.

Property Location: 205 Seachase Drive, Nags Head.

Existing Land Use: Village at Nags Head Waste Water Treatment Facility

Zoning Classification of Property: Village at Nags Head SPD-C, Institutional District.

Zoning Classification of Surrounding Properties: Properties to the north of this site are zoned Village at Nags Head SPD-C, Institutional District (Nags Head Fire Station 16, Clubcorp Golf Maintenance Facility). Properties to the west are zoned Village at Nags Head SPD-C, Recreation District (Golf Course). Properties to the south are zoned are Village at Nags Head SPD-C, SF-2 (Ridges Subdivision). Properties to the east are zoned Village at Nags Head SPD-C, Institutional (continuation of the Village at Nags Head Wastewater Treatment Facility).

Flood Hazard Zone of Property: Shaded X Flood Zone.

Land Use Plan Map/Policies: The 2017 Comprehensive Plan Future Land Use Map classifies this property as Institutional/Community Services. The proposal is consistent with land use policies.

#### SPECIFIC INFORMATION

##### Applicable Zoning Regulations:

- Use Regulations: Wastewater treatment plant is a permitted use within the Village at Nags Head SPD-C, Institutional District.
- Lot Coverage: Total allowable lot coverage for this site is 70% of the total lot area. Existing and proposed site improvements total 9.4% impervious coverage of the total lot area therefore lot coverage is compliant.
- Building Height: The maximum allowable building height within the Town is 35 ft. however, pursuant to Town Code Section 48-371(c), total height may be increased to 42 ft. with the use of an 8:12 roof pitch or greater. The height of the proposed structure is less than 20 feet in height therefore height is compliant.
- Architecture Design Standards: This property is located within the Village Special Planned Development-Community District and, as such, must meet the architectural design requirements set forth by the Village Architectural Control Committee. The applicant has filed the appropriate application and elevation drawings with the Village Architectural Control Committee (ACC) and has received Village ACC approval (stamped elevations).
- Parking: Required parking for this project is being provided in compliance with the standards for Public Utility Building at one parking space for each employee. With only one employee being onsite at any given time, one compliant parking space has been provided and parking is compliant. In addition, ample parking is available at the Village Clubcorp Maintenance building to the north.
- Buffering/Landscaping: Town Code Section 48-863(e) sets forth the Dimensional Requirements within the Village at Nags Head SPD-C Institutional District and requires only that 30% of the parcel be

landscaped space. This requirement continues to be met with the natural areas remaining to the south of the existing and proposed infrastructure. The proposed site improvements do not trigger additional landscaping however the applicant has proposed to supplement the existing 10 ft. wide buffer along the western and southern property boundaries. The plan denotes that additional holly, red cedar and osmanthus trees/shrubs will be planted among the existing mature pine trees.

- Lighting: No additional lighting is being proposed with this site plan amendment application.
- Signage: No signage is being proposed with this site plan amendment application.

Stormwater Management: The Town Engineer has reviewed and approved the proposed stormwater management plan.

Traffic Circulation: The Town Engineer has reviewed and approved the proposed traffic circulation onsite.

Fire: This project will be required to comply with all applicable NC Fire Prevention Code requirements as part of building permit application review and issuance.

Public Works: The Public Works Director has reviewed and approved the proposal as presented.

#### ANALYSIS

Staff finds that the project is consistent with the proposed use and development standards of the Town Code of Ordinances.

#### STAFF RECOMMENDATION

Staff recommends approval of the Site Plan Amendment Application as presented.

#### PLANNING BOARD RECOMMENDATION

At their December 18, 2018 meeting the Planning Board voted unanimously to recommend approval of this Site Plan Amendment request as presented."

**MOTION**: Comr. Fuller made a motion to approve the site plan amendment for Carolina Water Service Inc. for numerous site improvements to the Village Waste Water Treatment Plant as presented. The motion was seconded by Comr. Siers which passed unanimously.

### **NEW BUSINESS**

#### Planning Board - Appointment to fill vacancy

The agenda summary sheet read in part as follows:

"Consideration of appointment to the Planning Board (to fill vacancy when Mark Cornwell submitted his resignation December 10, 2018)

'Attached please find the list of potential candidates interested in serving on the Planning Board (all have been contacted) as well as a tracking chart of the current members.

'Consideration of appointment of Board of Adjustment Chair and Vice-Chair in accordance with Town Code Sec. 48-592:

"Sec. 48-592. - Board of adjustment officers.

At a Board of Commissioners' regular meeting, the mayor shall designate one of the members of the board as chair and another as vice-chair who shall serve for one year. In the event, that the mayor does not make such a designation, the chair and vice-chair shall continue in their respective offices. In the absence, disqualification or vacancy of the chair and vice-chair, the most senior member seated and present shall act as chair for any meeting until a duly appointed chair or vice-chair is available."

'Attached please find a tracking chart of the current Board of Adjustment members."

Planning Board

**MOTION:** Comr. Fuller made a motion to nominate Meade Gwinn to fill the Planning Board vacancy. The motion was seconded by Comr. Siers which passed unanimously.

Board of Adjustment - Appointment of Chair and Vice-Chair

**MOTION:** Comr. Renée Cahoon made a motion to reappoint Jack Cooper as Board of Adjustment Chair and Margaret Suppler as Board of Adjustment Vice-Chair. The motion was seconded by Mayor Pro Tem Walters which passed unanimously.

## **ITEMS REFERRED TO AND PRESENTATIONS FROM TOWN MANAGER**

Town Manager Ogburn - Consideration of the acquisition of real property located at 2620 Bridge Lane; Consideration of associated contract, budget amendment and resolution terminating the Nags Head Leasing Interfund Loan Agreement

The agenda summary sheet read in part as follows:

"At the January 2<sup>nd</sup> Board of Commissioners meeting, Town Manager Cliff Ogburn will present the contract for acquisition of real property located at 2620 Bridge Lane – this property is expected to assist the Town with stormwater drainage flow.

'Attached please find Assignment of Contract; Offer to Purchase and Contract – Vacant Lot/Land; Budget Amendment and a resolution cancelling the action by Nags Head Leasing re: the Interfund Loan Agreement."

**MOTION:** Mayor Pro Tem Walters made a motion to approve Budget Amendments 7.A and 7.B as associated with the purchase of 2620 Bridge Lane as presented. The motion was seconded by Comr. Renée Cahoon which passed unanimously.

Budget Amendments 7.A and 7.B associated with the purchase of 2620 Bridge Lane in Nags Head Acres, as approved, are attached to and made a part of these minutes as shown in Addendum "D".

**MOTION:** Mayor Pro Tem Walters made a motion to approve the purchase contract for 2620 Bridge Lane in the amount of \$110,000 as presented. The motion was seconded by Comr. Siers which passed unanimously.

The purchase contract, as approved, is on file in the Town Clerk's office.

**MOTION:** Comr. Fuller made a motion to adopt the resolution terminating the Nags Head Leasing Interfund Loan Agreement as presented. The motion was seconded by Comr. Siers which passed unanimously.

The resolution terminating the Nags Head Leasing Interfund Loan Agreement, as adopted, read in part as follows:

"WHEREAS, at its December 5, 2018 regular meeting, the Board of Commissioners for the Town of Nags Head approved an Interfund Loan Agreement between the Town of Nags Head General Fund and the Nags Head Leasing Corporation Fund for the purposes set forth in the Interfund Loan Agreement dated December 5, 2018; and

'WHEREAS, the grant for which the Town applied for funding of the Town's purchase of real property located at 2620 S. Bridge Lane, Nags Head, NC (the "Property") was denied, thereby rendering moot the need for Nags Head Leasing Corporation to purchase the Property using funds provided through the Interfund Loan Agreement; and

'WHEREAS, no funds have been disbursed from the Town of Nags Head General Fund to the Nags Head Leasing Corporation Fund under the Interfund Loan Agreement.

'NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners for the Town of Nags Head as follows:

'The Interfund Loan Agreement between the Town of Nags Head General Fund and the Nags Head Leasing Corporation Fund dated December 5, 2018 is hereby terminated."

## **MAYOR'S AGENDA**

### Mayor Cahoon - Consideration of resolution in support of the medical use of marijuana in North Carolina

Mayor Cahoon presented a resolution in support of the medical use of marijuana in North Carolina.

**MOTION:** Comr. Renée Cahoon made a motion to adopt the resolution in support of the medical use of marijuana in North Carolina as presented. The motion was seconded by Comr. Siers which passed unanimously.

The resolution in support of the medical use of marijuana in North Carolina, as adopted, read in part as follows:

"WHEREAS, Medical Marijuana has been demonstrated to be an effective drug for treatment of certain human ailments; AND

'WHEREAS, A total of 33 states, the District of Columbia, Guam and Puerto Rico have approved comprehensive public medical marijuana/cannabis programs as a legal and safe medical alternative for veterans suffering from Post Traumatic Stress Disorder (PTSD), Traumatic Brain Injury (TBI), and other chronic physical, mental, medical conditions as well as opioid/drug addiction for those who choose to use cannabis under the advisement and care of a private physician; AND

'WHEREAS, Current North Carolina law denies doctors the right to treat patients by prescribing Medical Marijuana; AND

'WHEREAS, Many states currently allow doctors to prescribe Medical Marijuana, a policy resulting in relief from pain and suffering for their patients; AND

'WHEREAS, There is substantial evidence from a comprehensive study by the National Academy of Sciences and the National Academic Press that concludes cannabinoids are effective for treating chronic pain, chemotherapy induced nausea and vomiting, sleep disturbances related to obstructive sleep apnea, multiple sclerosis spasticity symptoms, and fibromyalgia; AND

'WHEREAS, Prescribed drugs such as opioids and benzodiazepines are reported to have high potential for adverse side effects and high potential for abuse and addiction, which could potentially lead to hospitalization or death by the patients who consume them; AND

'WHEREAS, The FDA continues to facilitate the work of companies interested in appropriately bringing safe, effective, and quality products to market, including scientifically-based research concerning the medicinal uses of marijuana.

'NOW THEREFORE BE IT RESOLVED that the Town of Nags Head Board of Commissioners does hereby support the use of marijuana in the medical field and encourages the State of North Carolina to adopt legislation to that effect and that the State of North Carolina grant doctors the right to prescribe Medical Marijuana in the same way they prescribe other drugs."

## **CLOSED SESSION**

Town Manager Ogburn - Request for Closed Session

**MOTION:** Mayor Pro Tem Walters made a motion to enter Closed Session: 1) To discuss confidential personnel matters in accordance with GS 143-318.11(a)(6), 2) To consider the acquisition of the South Beach Grill property located at 6806 S Virginia Dare Trail in accordance with GS 143-318.11(a)(5), and 3) To confer with the Town Attorney in a matter of attorney/client privilege in accordance with GS 143-318.11(a)(3). The motion was seconded by Comr. Renée Cahoon which passed unanimously. The time was 11:55 a.m.

## **OPEN SESSION**

The Board re-entered Open Session at 12:37 p.m. Town Attorney Leidy reported that during Closed Session the Board did discuss property acquisition and provided some instruction to negotiate with the property owners re: the acquisition but no other actions were taken.

## **ADJOURNMENT**

**MOTION:** Mayor Pro Tem Walters made a motion to recess to the Board Retreat on January 24, 2019 at 8:30 a.m. at 2621 S Virginia Dare Trail. The motion was seconded by Comr. Siers which passed unanimously. The time was 12:40 p.m.

\_\_\_\_\_  
Carolyn F. Morris, Town Clerk

Date Approved: February 6, 2019

Mayor: \_\_\_\_\_  
Benjamin Cahoon